

REMARKS

Claims 2-21 are in the application.

The claims have been amended to more clearly point out and distinctly claim applicants' invention. Independent claims 19 and 21 have been amended to required that the tubular elements be provided with a central axial through opening and that the connector extend from the butt-ends of the tubular decorative element and extend out from the cross openings in the wall of that element, as shown in Example 1 of the specification. The amendments to the claims are fully supported by the disclosure, and no new matter is introduced thereby.

The invention as presently claimed provides features including a tubular element having longitudinal and cross openings which provides the ability to create "two-dimensional" ornamental compositions (i.e. decorative elements located both on the longitudinal opening side and on the cross openings side) using one connector (see, Example 1) and thus allows achievement of the technical result disclosed in the present application, namely: creation of a jewelry decorative article with improved useful quality by virtue of widening the variety of constructive solutions.

Figure 7 provides an illustration of these distinctive features of the claimed invention.

In addition, applicant submits herewith a few illustrative pictorial representations of jewelry articles incorporating these features, where one of the photographs shows a tubular element and the remainder show "two-dimensional" compositions.

Applicant gratefully notes that the Examiner has withdrawn the two rejections previously entered under 35 U.S.C. 112, as well as the two rejections entered under 35 U.S.C. 103(a) under the previously cited art.

The Examiner has also apparently withdrawn the objection to claims 2-5 and 7 as being dependent upon a rejected base claims. The Examiner apparently has reconsidered his conclusion that these claims were otherwise allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims.

Claims 2-21 stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 4,712,389 ("Innis") in view of U.S. Patent 4,305,262 ("Ferrara") and U.S. Patent Publication 2003/0136149 ("Logan").

This rejection is respectfully traversed, and reconsideration and withdrawal of the rejection are respectfully requested as applicable to the amended claims.

The Examiner states Innis discloses a connector in the form of a thread or a chain (referencing element 14 and the abstract), a lock (reference element 15), a tubular decorative element (referencing element 11) with a cross-through opening (referencing 12 and 13) to pass the connector (referencing Figure 2), wherein the tubular element is made form silver or gold (referencing the abstract). The Examiner acknowledges that Innis fails to disclose a plurality of decorative elements in the form of settings with stones.

The Examiner states that it would have been obvious to a person having ordinary skill in the art to add a second tubular element to the chain in order to allow the wearer to place a second type of flower in the tubular element to further enhance the beauty of the necklace. The Examiner also notes that duplication of parts is obvious to a person having ordinary skill in the art, but does not provide any authority for this statement.

The Examiner further states that Ferrara discloses that it is old and well-known to place decorative elements on a chain to beautify the chain. The Examiner also states that Logan discloses that it is well known to place decorative elements (12, 14) between two other identical beads (16) on a chain in order to separate the beads and to produce an appealing pattern to the wearer. The Examiner concludes that it would have been obvious to place decorative elements with gemstones on Innis' necklace in order to separate the two tubular elements (flower holders) to prevent the flowers from being tangled, while beautifying the necklace.

Regarding claims 2-16, 20 and 21, the Examiner states that Innis fails to disclose a corrugated or faceted surface or any other shapes or finishes on the tubular elements. The Examiner states that the courts have found that matters relating to ornamentation only, which have no mechanical function, cannot be relied upon to patentably distinguish the claimed invention from the prior art, citing In re Seid, 161 F.2d 229, 73 USPQ 431 (CCPA 1947). The Examiner concludes that it would have been obvious to a person having ordinary skill in the art to change the shape or surface finish of the tubular elements to produce a different visually appealing look to the tubular element.

Applicant respectfully notes that the cited art does not make out a *prima facie* case of obviousness with respect to the invention as presently claimed. There is nothing in Innis nor in either of the secondary references to teach or suggest the presently claimed invention to one of ordinary skill in the art. Nor would the present invention be within the skill of one of ordinary creativity. Common sense does not suggest the presently claimed invention in view of Innis. If Innis were modified to meet the limitations of the presently claimed invention, the flower would lie horizontally - gravity would not operate to retain the flower in the holder - and the very purpose of Innis' invention would be defeated by the hypothetical modification.

Accordingly, reconsideration and withdrawal of the rejection entered, as applicable to the amended claims, are respectfully requested.

Applicant respectfully requests early reconsideration and allowance of all claims.